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7 **UNITED STATES DISTRICT COURT**
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9 **EASTERN DISTRICT OF CALIFORNIA**

10 JOSE ACOSTA,

11 Plaintiff,

12 v.

13 ALL AMERICAN GLASS, INC., et al.,

14 Defendants.

Case No. 1:25-cv-00240-JLT-SAB

ORDER VACATING JUNE 5, 2025
SCHEDULING CONFERENCE AND
REQUIRING PLAINTIFF TO FILE A
MOTION FOR DEFAULT JUDGMENT

THIRTY-FIVE DAY DEADLINE

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16 Plaintiff commenced this action on February 24, 2025. (ECF No. 1.) On April 10, 2025,
17 2025, the Clerk of the Court entered default against Defendants All American Glass, Inc. and
18 Laura M. Williams. (ECF Nos. 7, 8.) The scheduling conference in this matter is currently set
19 for June 5, 2025. (ECF No. 3.)

20 Pursuant to Federal Rules of Civil Procedure 55, obtaining a default judgment is a two-
21 step process. Yue v. Storage Technology Corp., No. 3:07-cv-05850, 2008 WL 361142, *2 (N.D.
22 Cal. Feb. 11, 2008). Entry of default is appropriate as to any party against whom a judgment for
23 affirmative relief is sought that has failed to plead or otherwise defend as provided by the Federal
24 Rules of Civil Procedure and where that fact is made to appear by affidavit or otherwise. Fed. R.
25 Civ. P. 55(a). After entry of default, a plaintiff can seek entry of default judgment. Fed. R. Civ.
26 P. 55(b)(1) and (2). “Default judgments are generally disfavored, and whenever it is reasonably
27 possible, cases should be decided upon their merits.” In re Hammer, 940 F.2d 524, (9th Cir.
28 1991) (cleaned up).

1 As the Defendants in this matter are in default, the Court shall vacate the initial
2 scheduling conference and set a deadline for a motion for default judgment to be filed.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Within **thirty-five (35) days** from the date of service of this order, Plaintiff shall
5 file a motion for default judgment;

6 2. The initial scheduling conference set for June 5, 2025, is VACATED; and

7 3. Plaintiff is advised that the failure to comply with this order shall result in a
8 recommendation that this action be dismissed for failure to prosecute.

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10 IT IS SO ORDERED.

11 Dated: May 7, 2025



12 STANLEY A. BOONE
13 United States Magistrate Judge

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